(1968) KLJ 381

High Court Of Kerala

Case No: C. R. P. No''s. 316/65 and 1306 of 1966 from C. M. P. No. 5800 and 5611 respectively in O.S. No. 27 of 1960 of Ernakulam Sub Court.

Sebastian		APPELLANT
	Vs	
The Official Receiver, District Court, Kottayam and Others		RESPONDENT

Date of Decision: Feb. 10, 1967

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Order 21 Rule 77, Order 21 Rule 78

Citation: (1968) KLJ 381

Hon'ble Judges: P. T. Raman Nayar, J

Bench: Single Bench

Advocate: M. Ramanatha Pillai, for the Appellant; V. Rama Shenoi and R. Raya Shenoi for 2nd Respondent, P. K. Kurien, V. Desikan, K. A. Nayar and K. Sukumaran for 5th Respondent, P. P. John for 6th Respondent, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P. T. Raman Nayar, J.
The sale of the buses was under Order XXI Rule 77 of the Code. No confirmation by the Court is contemplated;

the sale became absolute on payment of the purchase money, The petitioner judgment-debtor''s application, to the court to desist from confirming

the sale and to order a resale on the ground of material irregularity was clearly incompetent, under Order XXI Rule 78 his remedy, if any, lay in a

suit and it is a little difficult to understand what the learned Subordinate Judge meant when he directed the petitioner to deposit the sale amount and

commission within five days in default of which the sale would be confirmed. That was an illegal exercise of jurisdiction in the petitioner''s favor

which the petitioner of all persons cannot complain and C. R. P. 1306 of 1966 against that order is hereby dismissed with cost. The petitioner did

not make the deposit within the five days allowed and the learned Subordinate Judge rightly declined to aggravate his error by allowing the

petitioner further time. C.R.P. 316 of 1965 against the dismissal of the petitioner''s application for the purpose is therefore dismissed with costs.

The petitioner will be entitled to withdraw any money he might have deposited'' in compliance with the direction dated 18-10-1966 in C. R. P. 316

of 1965.